

PLAINTIFF'S EXHIBIT B-2

Experts From Deposition of Daniel Gervais (August 21, 2014)

In The Case Of

*Carrie Couser, Individually and On Behalf of All Others Similarly
Situated*

v.

Comenity Bank

12-CV-02482-MMA-BGS

KAZEROUNI LAW GROUP, APC
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Exhibit B-2

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

CARRIE COUSER, INDIVIDUALLY
AND ON BEHALF OF ALL OTHERS
SIMILARLY SITUATED,

Plaintiffs,

vs.

Case No.

COMENITY BANK,

3:12-CV-02484-MMA-BGS

Defendant.

VOLUME II

Continued Deposition of DANIEL GERVAIS,
taken at 41 South High Street, Columbus,
Ohio, commencing at 10:04 a.m., Thursday,
August 21, 2014, before Rebecca Williams,
RPR, Notary Public.

JOB No. 1885285

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1 I remember last time in your
2 deposition, you said you actually work for
3 Alliance Data; is that correct?

4 A. Yes.

5 Q. Which is the parent company of 10:09:59
6 Comenity?

7 A. Yes.

8 Q. And is that still your employer?

9 A. Yes.

10 Q. Okay. Now, your job title, is it 10:10:04
11 still the same as when you testified in
12 January?

13 A. Slightly different.

14 Q. Okay.

15 A. It's -- it was strategy analytics 10:10:15
16 manager. It's now senior strategy analytics
17 manager.

18 Q. Congratulations. You got a
19 promotion?

20 A. Yes. 10:10:24

21 Q. So are there any job duties that
22 are different than what you already described
23 in January?

24 A. No.

25 Q. You just have a better title? 10:10:29

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1 A. Yes.

2 Q. I like it. Not that it's any of my
3 business, I hope you're getting compensated
4 better too.

5 So that all said and done, are 10:10:40
6 there anything -- is there anything that's
7 changed, as far as your job duties or your job
8 title, as to what we went over in January?

9 A. No.

10 Q. Okay. Your educational background, 10:10:51
11 has anything changed since January?

12 A. No.

13 Q. You haven't enrolled in a Ph.D.
14 program or anything?

15 A. No, sir. 10:10:58

16 Q. So we're done with that, too.

17 MR. KAZEROUNIAN: So that we are
18 clear, Mr. Kaminski, we can rely on the prior
19 testimony from the January transcript on those
20 background questions? 10:11:07

21 MR. KAMINSKI: Yes.

22 MR. KAZEROUNIAN: Okay.

23 Q. Now, one thing that I just wanted
24 to clarify, before we get into the nitty-gritty
25 of today's deposition, is that you testified in 10:11:20

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1 January that the only time a dialer is used to
2 make calls, for at least the period of time
3 that we're concerned with, which is from August
4 of 2010 until May -- end of May of 2014, for
5 collection purposes and on very few 10:11:38
6 circumstances for, like, you know, emergencies,
7 like fraud or like in breaches of security,
8 correct?

9 A. Correct.

10 Q. There's no other reason -- nothing 10:11:47
11 has changed as to the reason of using a dialer?

12 A. Nothing has changed.

13 Q. Okay. Now, since we met each other
14 last in January, Mr. Kaminski and I have been
15 negotiating, and the class definition has 10:12:01
16 slightly changed. Are you aware of the new
17 class definition?

18 A. Can you -- in terms of dates or in
19 terms of --

20 Q. Well, actually, really what I was 10:12:12
21 getting at is the dates. The period of time in
22 question. Are you aware of that?

23 A. Yes, sir.

24 Q. And what do you believe it is?

25 A. August of 2010 to May 26, 2014. 10:12:21

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1 it impossible for the dialer to pick up anyone
2 to put into the dialer with the telephone
3 number that's been coded "Do not call"?

4 A. Correct.

5 Q. And with what degree of certainty 10:46:10
6 does that work?

7 MR. KAMINSKI: Objection; calls for
8 speculation; vague and ambiguous.

9 Q. I mean, is it more than ninety-five
10 percent accurate? 10:46:20

11 A. Yes, sir.

12 Q. More than ninety-nine percent?

13 A. Yes, sir.

14 Q. Okay. Now, we discussed
15 arbitration in the last deposition in January. 10:46:33
16 A lot of the accountholders have arbitration
17 agreements, correct?

18 A. Yes, sir.

19 Q. Now, this 4.3 million people --
20 now, if -- I talked to your counsel previously. 10:46:53
21 I think there is actually a specific number --
22 precise number of people, I think, 4,322,812.
23 I'm not expecting you to confirm or deny that,
24 because, obviously, off the top of your head,
25 you probably don't, but there is a specific 10:47:10

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